

Federal Communications Commission

DA 99-1077

JUN 4 1 24 PM '99

DISTANCE BY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 99-70
Table of Allotments,) RM-9380
FM Broadcast Stations.)
(Deer Lodge, Hamilton and)
Shelby, Montana))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: May 26, 1999**Released: June 4, 1999**

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by Marathon Media of Montana, L.P., licensee of Station KBMG, Hamilton, Montana, and Robert C. Toole, licensee of Station KQRV, Deer Lodge, Montana ("petitioners"), the Commission has before it for consideration the Notice of Proposed Rule Making, 14 FCC Rcd 3568 (1999), requesting changes at Deer Lodge, Hamilton and Shelby, Montana. Petitioners and Tri-County Radio Corp. ("Tri-County"), licensee of Station KZIN, Shelby, Montana, filed supporting comments.

2. As stated in the Notice, Marathon Media of Montana, L.P. proposed the substitution of Channel 242C for Channel 240C3 at Hamilton, Montana, and modification of its license for Station KBMG to specify operation on Channel 242C. Robert C. Toole proposed the substitution of Channel 245C1 for Channel 243C2 at Deer Lodge, Montana, and modification of his license for Station KQRV to specify operation on the new channel. To accommodate the new allotments at Hamilton and Deer Lodge, petitioners requested the substitution of Channel 244C1 for Channel 242C1 at Shelby, Montana, and modification of the license for Station KZIN to specify operation on Channel 244C1. Since Tri-County Radio Corp., licensee of Station KZIN, Shelby, consented to the substitution, there was no need to issue an Order to Show Cause for the substitution at Shelby. Petitioners also stated their willingness to reimburse the licensee of Station KZIN for its reasonable expenses resulting from the modification of its license to Channel 244C1.

3. In comments, Petitioners have restated their support of the requested substitutions at Deer Lodge and Hamilton, Montana, indicating that they will apply for and construct the higher proposed in this proceeding. Tri-County, licensee of Station KZIN, filed comments consenting to the proposed substitution at Shelby. Petitioners have restated their willingness to reimburse the licensee of Station KZIN, Shelby, for its reasonable expenses resulting from the requested channel change. According to Petitioners, the channel upgrades for Stations KBMG and KQRV

will allow the stations to substantially increase their service areas and populations. Petitioners point out that Station KBMG, Hamilton, will increase its service from 30,041 people to 120,494 people. Further, Station KQRV, Deer Lodge, currently serving 55,310 people could expand its service area to include 95,802 people.

4. After careful consideration of the proposal, we conclude that the public interest would be served by the channel substitutions at Deer Lodge and Hamilton, Montana. In both instances, the upgrades will enable these stations to provide service to a larger area and population. A staff engineering analysis has determined that Channel 242C can be allotted to Hamilton, Montana, and Channel 245C1 can be allotted to Deer Lodge, Montana, in compliance with the Commission's spacing requirements at Petitioner's selected sites.¹ In order to accomplish the substitutions at Hamilton and Deer Lodge, we shall also substitute Channel 244C1 for Channel 242C1 at Shelby, Montana.² In accordance with Section 1.420(g) of the Commission's Rules, we are herein modifying the license for Station KBMG, Hamilton, Montana, to specify operation on Channel 242C and the license for Station KQRV, Deer Lodge, Montana, to specify operation on Channel 245C1. We shall also modify the license for Station KZIN, Shelby, Montana, to specify operation on Channel 244C1 in lieu of Channel 242C1. Since Hamilton and Shelby are located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained for these allotments.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective July 19, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Deer Lodge, Montana	245C1
Hamilton, Montana	242C, 251C3
Shelby, Montana	244C1, 250C

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Marathon Media of Montana, L.P. for Station KBMG, Hamilton, Montana, IS MODIFIED to specify operation on Channel 242C in lieu of Channel 240C3, subject to the following conditions:

¹ The coordinates for Channel 242C at Hamilton are 46-48-09 and 113-58-21. The coordinates for Channel 245C1 at Deer Lodge are 46-06-03 and 112-57-00.

² The coordinates for Channel 244C1 at Shelby are 48-19-42 and 112-02-03.

(a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Robert C. Toole for Station KQRV, Deer Lodge, Montana, IS MODIFIED to specify operation on Channel 245C1 in lieu of Channel 243C2, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. IT IS FURTHER ORDERED, That pursuant to the authority contained in Section 316(a) of the Communications Act of 1934, as amended, that the license of Station KZIN, Shelby, Montana, IS MODIFIED, to specify operation on Channel 244C1 subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in License BLH-840918CY except for the channel as specified above. Any

changes, except those specified, require prior authorization pursuant to an application for construction permit. (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with License BLH-840918CY, except for the channel as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

9. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Marathon Media of Montana, L.P., licensee of Station KBMG, Hamilton, Montana, and Robert C. Toole, licensee of Station KQRV, Deer Lodge, Montana, are required to submit a rule making fee in addition to the fee required for the applications to effect the upgrades at Deer Lodge and Hamilton, Montana.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 242C, Hamilton, Montana, Channel 245C1, Deer Lodge, Montana or Channel 244C1, Shelby, Montana, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau